

**26-6b-1. Applicability of chapter -- Administrative procedures.**

(1) This chapter applies to involuntary examination, treatment, isolation, and quarantine actions applied to individuals or groups of individuals by the department or a local health department.

(2) The provisions of this chapter supersede the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(3) The Department of Health may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this chapter.

Amended by Chapter 382, 2008 General Session

**26-6b-2. Definitions.**

As used in this chapter:

(1) "Department" means the Department of Health or a local health department as defined in Section 26A-1-102.

(2) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section 26-8a-102;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.

(3) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

(4) "Public health official" means:

(a) the executive director of the Department of Health, or the executive director's authorized representative; or

(b) the executive director of a local health department as defined in Section 26A-1-102, or the executive director's authorized representative.

(5) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

(a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;

(b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;

(c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or

(d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

Amended by Chapter 185, 2006 General Session

**26-6b-3. Order of restriction.**

(1) The department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Subsection 26-1-30(2) or 26A-1-114(1)(b) upon compliance with the requirements of this chapter; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department, including:

(i) observation;

(ii) information that the department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the Department of Health by administrative rule.

(b) An order of restriction issued by a department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department, is reasonable based on the totality of circumstances known to the health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section 26-6b-3.3.

(c) (i) A department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department's ability to prevent or limit:

(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;

(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;

(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or

(D) the exposure or transmission of a condition that poses a threat to public health.

(ii) A verbal order of restriction issued under the provisions of Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26-6b-3.3.

(3) Pending issuance of a written order of restriction under Section 26-6b-3.3, or judicial review of an order of restriction by the district court pursuant to Section 26-6b-6,

an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department.

(4) The department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

Amended by Chapter 297, 2011 General Session

**26-6b-3.1. Consent to order of restriction -- Periodic review.**

(1) (a) The department shall either seek judicial review of an order of restriction under Sections 26-6b-4 through 26-6b-6, or obtain the consent of an individual subject to an order of restriction.

(b) If the department obtains consent, the consent shall be in writing and shall inform the individual or group of individuals:

(i) of the terms and duration of the order of restriction;

(ii) of the importance of complying with the order of restriction to protect the public's health;

(iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;

(iv) that for any individual who consents to the order of restriction:

(A) the order of restriction will not be reviewed by the district court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and

(B) the individual shall notify the department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and

(v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section 26-6b-3.2.

(2) (a) The department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.

(b) (i) If at any time, the department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department shall immediately discharge the individual or group from the order of restriction.

(ii) If the department determines that the conditions justifying the order of restriction continue to exist, the department shall send to the individual a written notice of:

(A) the department's findings, the expected duration of the order of restriction, and the reason for the decision; and

(B) the individual's right to a judicial review of the order of restriction by the district court if requested by the individual.

(iii) Upon request for judicial review by an individual, the department shall:

- (A) file a petition in district court within five business days after the individual's request for a judicial review; and
- (B) proceed under Sections 26-6b-4 through 26-6b-6.

Amended by Chapter 297, 2011 General Session

**26-6b-3.2. Involuntary order of restriction -- Notice -- Effect of order during judicial review.**

(1) If the department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection 26-6b-3.1(1)(b)(iv)(B), the department shall:

(a) give the individual or group of individuals subject to the order of restriction a written notice of:

- (i) the order of restriction and any supporting documentation; and
- (ii) the individual's right to a judicial review of the order of restriction; and

(b) file a petition for a judicial review of the order of restriction under Section 26-6b-4 in district court within:

- (i) five business days after issuing the written notice of the order of restriction; or
- (ii) if consent has been withdrawn under Subsection 26-6b-3.1(1)(b)(iv)(B), within five business days after receiving notice of the individual's withdrawal of consent.

(2) (a) An order of restriction remains in effect during any judicial proceedings to review the order of restriction if the department files a petition for judicial review of the order of restriction with the district within the period of time required by this section.

(b) Law enforcement officers with jurisdiction in the area where the individual who is subject to the order of restriction can be located shall assist the department with enforcing the order of restriction.

Enacted by Chapter 185, 2006 General Session

**26-6b-3.3. Contents of notice of order of restriction -- Rights of individuals.**

(1) A written order of restriction issued by a department shall include the following information:

(a) the identity of the individual or a description of the group of individuals subject to the order of restriction;

(b) the identity or location of any premises that may be subject to restriction;

(c) the date and time for which the restriction begins and the expected duration of the restriction;

(d) the suspected communicable disease, infectious, chemical or biological agent, or other condition that poses a threat to public health;

(e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;

(f) any conditions on the restriction, such as limitation of visitors or requirements for medical monitoring;

(g) the medical or scientific information upon which the restriction is based;

(h) a statement advising of the right to a judicial review of the order of restriction by the district court; and

(i) pursuant to Subsection (2), the rights of each individual subject to restriction.

(2) An individual subject to restriction has the following rights:

(a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection 26-6b-4(3);

(b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;

(c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;

(d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

(e) the right to cross examine witnesses; and

(f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.

(3) (a) Notwithstanding the provisions of Subsection (1), if a department issues an order of restriction for a group of individuals, the department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:

(i) protect the privacy of medical information of individuals in the group; or

(ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.

(b) When a department modifies notice to a group of individuals under Subsection (3)(a), the department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.

(4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an individual subject to an order of restriction may not be terminated from employment if the reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.

(b) The department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection (4)(a).

(c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection (4)(a).

Amended by Chapter 115, 2008 General Session

#### **26-6b-3.4. Medical records -- Privacy protections.**

(1) (a) Health care providers as defined in Section 78B-3-403, health care facilities licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and governmental entities, shall, when requested, provide the public health official and the individual subject to an order of restriction, a copy of medical records that are relevant to the order of restriction.

(b) The records requested under Subsection (1)(a) shall be provided as soon as reasonably possible after the request is submitted to the health care provider or health care facility, or as soon as reasonably possible after the health care provider or facility receives the results of any relevant diagnostic testing of the individual.

(2) (a) The production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state. A health care provider or facility is encouraged to provide copies of medical records or other records necessary to carry out the purpose of this chapter free of charge.

(b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a state governmental entity shall provide medical records or other records necessary to carry out the purposes of this chapter, free of charge.

(c) If a health care provider or health care facility does not provide medical records free of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility may charge a fee for the records that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.

(3) Medical records held by a court related to orders of restriction under this chapter shall be sealed by the district court at the conclusion of the case.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 115, 2008 General Session

**26-6b-4. Judicial review by the district court -- Required notice -- Representation by counsel -- Conduct of proceedings.**

(1) The provisions of this section and Sections 26-6b-5 through 26-6b-7 apply if a department issues an order for restriction, and:

(a) an individual subject to the order of restriction refuses to consent to the order of restriction;

(b) an individual subject to an order of restriction has withdrawn consent to an order of restriction under the provisions of Subsection 26-6b-3.1(1)(b)(iv)(B); or

(c) the department chooses to not attempt to obtain consent to an order of restriction and files an action for judicial review of the order of restriction.

(2) (a) If the individual who is subject to an order of restriction is in custody, the department, which is the petitioner, shall provide to the individual written notice of the petition for judicial review of the order of restriction and hearings held pursuant to Sections 26-6b-5 through 26-6b-7 as soon as practicable, and shall send the notice to the legal guardian, legal counsel for the parties involved, and any other persons and immediate adult family members whom the individual or the district court designates. The notice shall advise these persons that a hearing may be held within the time provided by this chapter.

(b) If the individual has refused to permit release of information necessary for the provision of notice under this Subsection (2), the extent of notice shall be determined by the district court.

(c) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines that written notice to each individual in a group of individuals subject to an order of restriction is not practical considering the circumstances of the threat to public

health, the court may order the department to provide notice to the individual or group of individuals in a manner determined by the court.

(3) (a) If the individual who is subject to an order of restriction is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the district court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorney fees for counsel, as determined by the district court, shall be made by the county in which the individual resides or was found.

(b) The parties may appear at the hearings, to testify, and to present and cross-examine witnesses. The district court may, in its discretion, receive the testimony of any other individual.

(c) The district court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.

(d) The district court may order that the individual participate in the hearing by telephonic or other electronic means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

(4) The district court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other district court within this state where venue is proper, provided that the transfer will not be adverse to the legal interests of the individual.

(5) All persons to whom notice is required to be given may attend the hearings. The district court may exclude from the hearing all persons not necessary for the conduct of the proceedings.

(6) All hearings shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the health of the individual or others required to participate in the hearing.

(7) The district court shall receive all relevant and material evidence which is offered, subject to Utah Rules of Evidence.

(8) The district court may order law enforcement to assist the petitioner in locating the individuals subject to restriction and enforcing the order of restriction.

Amended by Chapter 115, 2008 General Session

**26-6b-5. Petition for judicial review of order of restriction -- Court-ordered examination period.**

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the district court of the county in which the individual or group of individuals reside or are located.

(b) (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under this chapter.

(ii) The Office of the Attorney General shall represent the department when the

petitioner is the Department of Health in any proceedings under this chapter.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician indicating the physician finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the district court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possible communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Amended by Chapter 115, 2008 General Session

**26-6b-6. Court determination for an order of restriction after examination period.**



(1) The district court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section 26-6b-5, unless the petitioner informs the district court prior to this hearing that the individual or group of individuals:

- (a) are not subject to restriction; or
- (b) have stipulated to the issuance of an order of restriction.

(2) If the individual or an individual in a group of individuals has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.

(3) (a) If the examination report required in Section 26-6b-5 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possibly communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.

(4) The petitioner shall, at the time of the hearing, provide the district court with the following items, to the extent that they have been issued or are otherwise available:

(a) the order of restriction issued by the petitioner;

(b) admission notes if any individual was hospitalized; and

(c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The district court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;

(ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and

(iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them

after weighing the following factors:

(A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;

(B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;

(C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and

(D) other relevant factors as determined by the court.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.

(8) (a) The order of restriction may not exceed six months without benefit of a district court review hearing.

(b) The district court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7). At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the district court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Amended by Chapter 115, 2008 General Session

**26-6b-7. Periodic review of individuals under court order.**

(1) At least two weeks prior to the expiration of the designated period of any court order still in effect, the petitioner shall inform the court that issued the order that the order is about to expire. The petitioner shall immediately reexamine the reasons upon which the court's order was based. If the petitioner determines that the conditions justifying that order no longer exist, it shall discharge the individual from involuntary quarantine, isolation, or treatment and report its action to the court for a termination of the order. Otherwise, the court shall schedule a hearing prior to the expiration of its order and proceed under Sections 26-6b-4 through 26-6b-6.

(2) The petitioner responsible for the care of an individual under a court order of involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month intervals reexamine the reasons upon which the order of indeterminate duration was based. If the petitioner determines that the conditions justifying that the court's order no longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and immediately report its action to the court for a termination of the order. If the petitioner determines that the conditions justifying the involuntary quarantine, isolation, or treatment continue to exist, the petitioner shall send a written report of those findings to the court. The petitioner shall notify the individual and his counsel of record in writing that the involuntary quarantine, isolation, or treatment will be continued, the reasons for that decision, and that the individual has the right to a review hearing by making a request to the court. Upon receiving the request for a review, the court shall immediately set a hearing date and proceed under Sections 26-6b-4 through 26-6b-6.

Enacted by Chapter 211, 1996 General Session

**26-6b-8. Transportation of individuals subject to temporary or court-ordered restriction.**

Transportation of an individual subject to an order of restriction to court, or to a place for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a department, or pursuant to a court order, shall be conducted by the county sheriff where the individual is located.

Amended by Chapter 185, 2006 General Session

**26-6b-9. Examination, quarantine, isolation, and treatment costs.**

If a local health department obtains approval from the Department of Health, the costs that the local health department would otherwise have to bear for examination, quarantine, isolation, and treatment ordered under the provisions of this chapter shall be paid by the Department of Health to the extent that the individual is unable to pay and that other sources and insurance do not pay.

Amended by Chapter 185, 2006 General Session

**26-6b-10. Severability.**

If any provision of this chapter, or the application of this chapter to any person or circumstance, is found to be unconstitutional, the provision is severable and the balance of this chapter remains effective, notwithstanding that unconstitutionality.

Enacted by Chapter 211, 1996 General Session